

# Disciplinary and Other FINRA Actions

## Firm Suspended, Individual Sanctioned

**Aura Financial Services, Inc (CRD® #42822, Birmingham, Alabama) and Timothy Michael Gautney (CRD #2552149, Registered Principal, Birmingham, Alabama)** submitted an Offer of Settlement in which the firm was suspended from association with any FINRA member until a total of \$42,166.60, plus interest, is paid in restitution to customers. Gautney was barred from association with any FINRA member in any principal capacity, suspended from association with any FINRA member in any capacity for eight months and ordered to pay a total of \$42,166.60, plus interest, in restitution to customers.

Without admitting or denying the allegations, the firm and Gautney consented to the described sanctions and to the entry of findings that the firm, acting through Gautney, failed to establish, maintain and enforce an adequate supervisory system and adequate written supervisory procedures to detect and prevent excessive trading in customer accounts. The findings stated that the firm, acting through Gautney, failed to reasonably supervise registered representatives and failed to respond to red flags indicating the representatives' apparent excessive trading. The findings also stated that the firm failed to comply with a previous Offer of Settlement, which Gautney signed on the firm's behalf, requiring each to pay \$100,000 in restitution to customers; approximately half of which remains unpaid. The findings also included that Gautney failed to respond to a FINRA request to provide testimony.

The firm's suspension was effective from September 17, 2010. Gautney's suspension is in effect from October 4, 2010, through June 3, 2011. (FINRA Case #2008011565203)

## Firms Fined, Individuals Sanctioned

**Biremis, Corp. (CRD #127840, Boston, Massachusetts) and Peter Beck (CRD #3048844, Registered Principal, Toronto, Canada)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000, and Beck was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for six weeks. Without admitting or denying the findings, the firm and Beck consented to the described sanctions and to the entry of findings that the firm employed an individual as its controller and as controller for several of its affiliated companies who was arrested and charged with numerous criminal violations. The findings stated that the individual informed Beck

## Reported for November 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

that criminal charges had been filed against him and, although the individual misrepresented the nature of the charges, Beck failed to follow up or otherwise investigate the criminal allegations against the individual. The findings also stated that Beck failed to instruct other firm employees to investigate the charges against the individual. The findings also included that the firm's written supervisory procedures, which were Beck's responsibility, did not require any such follow-up.

FINRA found that the individual was convicted, which made him statutorily disqualified from employment in the securities industry; and the firm, acting through Beck, failed to file a written application (Membership Continuance Form-400 (MC-400)) for relief from the statutory disqualification so that the individual could continue to associate with the firm, and the individual continued working as the firm's Financial and Operations Principal (FINOP). FINRA also found that the firm, acting through Beck, failed to establish, maintain and enforce a supervisory system and/or written supervisory procedures reasonably designed to investigate prospective employees' backgrounds, follow up on any red flags and achieve compliance with its registration and Uniform Application for Securities Industry Registration or Transfer (Form U4) reporting obligations.

Beck's suspension is in effect from November 1, 2010, through December 12, 2010. (FINRA Case #2008014753602)

**Coburn & Meredith, Inc. (CRD #164, Simsbury, Connecticut) and Elizabeth Coburn Derway (CRD #1873991, Registered Principal, Bloomfield, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000, jointly and severally with Derway. Derway was suspended from association with any FINRA member in a FINOP capacity for 20 business days. Without admitting or denying the findings, the firm and Derway consented to the described sanctions and to the entry of findings that the firm, acting through Derway, used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain its minimum required net capital.

Derway's suspension was in effect from October 18, 2010, through November 12, 2010. (FINRA Case #2010022722201)

## Firms Fined

**Assent LLC (CRD #104162, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and required to revise its written supervisory procedures to address order handling (Securities and Exchange Commission (SEC) Rules 606(b)(65) and (73), and 602(b)(1) and (4)); best execution/regular and rigorous review and the Three-Quote Rule (NASD® Rules 2320 and 3110); sales transactions (Regulation SHO Rule 204T); SEC Rule 10b-21; information barriers (NASD Rule 3010 and FINRA Rule 2010); and books and records (SEC Rules 17a-3 and 17a-4, and NASD Rule 3110(b)). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted short interest position reports in NASDAQ, over-the-counter (OTC™), AMEX and NYSE-listed securities to NASD that were incorrect. The findings stated that the

firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. The findings also stated that the firm transmitted reports to the Order Audit Trail System (OATS™) that did not include the special handling code, and contained inaccurate timestamps or order receipt times. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing order handling (SEC Rules 606(b)(65) and (73), and 602(b)(1) and (4)); best execution/regular and rigorous review and Three-Quote Rule (NASD Rules 2320 and 3110); sales transactions (Regulation SHO Rule 204T); SEC Rule 10b-21; information barriers (NASD Rule 3010 and FINRA Rule 2010); and books and records (SEC Rules 17a-3 and 17a-4, and NASD Rule 3110(b)). **(FINRA Case #2006006204501)**

**Barrett & Company (CRD #1175, Providence, Rhode Island)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and ordered to pay investors \$758, plus interest, in restitution. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to fully and promptly execute orders. The findings stated that the firm failed in some of the transactions, for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the customer's resultant price was as favorable as possible under prevailing market conditions. The findings also stated that the firm transmitted reports to OATS that contained inaccurate timestamps, transmitted incomplete reports that failed to include limit price information, and inaccurately reported multiple orders received from a single customer as one order. The findings also included that the firm inaccurately transmitted New Order, Route and Execution Reports to OATS when it should have transmitted a New Order Report and a Route Report or a Combined Order/Route Report for each order. FINRA found that the firm failed to show the correct entry time on brokerage order memoranda. **(FINRA Case #2006006872401)**

**CastleOak Securities, LP (CRD #125334, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding reporting to the Trade Reporting and Compliance Engine™ (TRACE™). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm failed to report the correct perspective (buy/sell) to TRACE for one of the reports. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning reporting to TRACE. **(FINRA Case #2009017971301)**

**Citadel Securities LLC (CRD #116797, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected short sale transactions and failed to report each transaction with a short sale modifier. The findings stated that the firm's supervisory

system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rule 203(b)(1) and NASD Rules 3350 and 6130(d)(6). The findings also stated that the firm improperly marked short sale orders as short sale exempt and, as a result, caused the resulting short sale transactions to be incorrectly reported to the NASD/NASDAQ Trade Reporting Facility (NNTRF) as short sale exempt. The findings also included that the firm effected long sale transactions and incorrectly reported each transaction with a short sale modifier. FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing registration and qualifications; trades reported on the firm's behalf; order marking requirements; and proprietary sales, specifically, accurate trade reporting of proprietary short sales. **(FINRA Case #2005003619101)**

**Collins Stewart LLC (CRD #24790, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000, ordered to pay \$56, plus interest, in restitution to customers, and required to revise its written supervisory procedures regarding order handling (SEC Rules 605 and 606), best execution (principal transactions), trade reporting, sales transactions (short sales and short sales reporting) and multiple market participant identifiers (MPIDs). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected a short sale in an equity security for its own account, without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm failed to provide written notification disclosing to its customers its correct capacity in a transaction. The findings also stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the firm failed to submit "Cancel Replace" reports, reported non-reportable transactions to OATS and failed to submit certain reports for one of its MPIDs. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing order handling (SEC Rules 605 and 606), best execution (principal transactions), trade reporting, sales transactions (short sales and short sales reporting) and multiple MPIDs.

FINRA found that the firm accepted and held customer market orders, traded for its own account at prices that would have satisfied the customer market orders, and failed to immediately thereafter execute the customer market orders or execute the customer market orders up to the size and at the same price at which it traded for its own account or at a better price. **(FINRA Case #2008012419601)**

**Esposito Securities, LLC (CRD #143710, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry

of findings that it transmitted last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) and failed to designate such last sale reports as reflecting a different price than the current market price when the execution was based on a prior reference point in time. The findings stated that the firm failed to report the correct execution time for transactions in reportable securities to the FNTRF. The findings also stated that the firm failed to make and keep current brokerage order memoranda that included the information specified in SEC Rule 17a-3(a)(6). The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting. **(FINRA Case #2008014170601)**

**Kildare Capital, Inc. (CRD #45796, Radnor, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding municipal securities reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) in the manner prescribed by Municipal Securities Rulemaking Board (MSRB) Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal, and the firm failed to report the correct trade time to the RTRS in these transactions. The findings stated that the firm failed to show the correct execution time on memoranda of transactions in municipal securities for the account the firm executed with another broker or dealer. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning municipal securities reporting. The findings also included that the firm failed to enforce its written supervisory procedures by failing to access and review its reported municipal securities transaction data through MSRB's Dealer Feedback Services on at least a monthly basis, as the firm's procedures required. **(FINRA Case #2009018645301)**

**Mark Boyar & Company, Inc. (CRD #11548, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it issued research reports that the firm labeled "Asset Analysis Focus" (AAF) on a paid subscription basis. The findings stated that the firm did not consider the AAF a research report and did not have in place policies and procedures designed to ensure compliance with the various research-related rules applicable to firms that issue research reports, such as those relating to research analyst and research principal registration, disclosures, conflicts, annual attestations and written supervisory procedures. The findings also stated that the firm allowed registered representatives at the firm to collaborate in the preparation of AAFs without having passed a qualifying examination, and allowed an individual also to collaborate in the preparation of AAFs without being registered as a general securities representative or in any other capacity through the firm, and without having passed a qualifying examination. The findings also included that a general securities principal supervised the preparation of AAFs without having passed the qualifying examination.

FINRA found that certain AAFs the firm issued failed to disclose certain NASD Rule 2711 required information, including the financial interest in the issuer of the research analysts who prepared the reports, price charts for issuers where the firm has assigned a price target for at least one year, and the valuation methods used to determine price targets and the risks that may impede achievement of the price targets. FINRA also found that an individual who collaborated in the preparation of AAFs purchased securities of companies during the 30-day period before the publication of the research reports concerning those companies. In addition, FINRA determined that the firm did not have the required research report-related written supervisory procedures in place, and the firm did not have a senior officer make the required annual attestation that the firm had adopted and implemented the required written supervisory procedures. Moreover, FINRA found that the firm did not make the required annual attestations for several years and filed inaccurate annual attestations for other years. **(FINRA Case #2008011794901)**

**National Financial Services LLC (CRD #13041, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities to the NNTRF. The findings stated that the firm transmitted trade reports for odd-lot trades and failed to report the transactions with the required odd-lot modifier of .RO to the NNTRF and the OTC Reporting Facility (OTCRF). **(FINRA Case #2008013131901)**

**Network 1 Financial Securities Inc. (CRD #13577, Red Bank, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures concerning OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data, so OATS was unable to link the execution reports to the related trade reports in a FINRA trade reporting system and these represented all of the match-eligible Execution or Combined Order/Execution Reports the firm transmitted to OATS during that period. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS. **(FINRA Case #2008013567901)**

**OFG Financial Services, Inc. (CRD #23940, Topeka, Kansas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all of its business-related electronic communications for some of its registered representatives. The findings stated that the firm's registered representatives at some of its offices had non-firm email addresses to conduct non-securities business, and upon receiving emails from securities customers at their non-firm email addresses, several of the



representatives, in certain instances, would reply using that same email address. The findings also stated that the firm's email system did not capture the emails from the non-firm email addresses, and a registered representative erroneously believed that his non-firm emails were going to the firm's server for retention, which did not occur. **(FINRA Case #2008011625301)**

**Olympus Securities, LLC (CRD #114050, Montville, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its written supervisory procedures regarding SEC Rule 605. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to make a report on the covered orders in national market system securities it received for execution from any person publicly available for several months. The findings stated that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, customer order memoranda and failed to show the correct terms and conditions on brokerage order memoranda by failing to correctly designate whether the orders were held or not-held orders. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rule 605. **(FINRA Case #2007008464001)**

**Penson Financial Services, Inc. (CRD #25866, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and required to revise its written supervisory procedures regarding SEC Rule 606; trade reporting, including Trade Reporting Facility® (TRF™) reporting, trade modifiers and matching trades; sales transactions, including determining and marking a sale as "long" or "short," locate requirement, accepting short sales for threshold securities and reporting sales to the TRF; OATS reporting, including accurate data and consistency of OATS information with the TRF; use of multiple MPIDs; and short interest reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly adjust open orders and failed, prior to executing the orders, to reduce, increase or adjust the price and/or number of shares of such orders by an amount equal to the dividend, payment or distribution, on the day that the security was quoted ex-dividend, ex-rights, ex-distribution or ex-interest. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and/or FINRA rules addressing SEC Rule 606; trade reporting, including TRF reporting, trade modifiers and matching trades; sales transactions, including determining and marking a sale as "long" or "short," locate requirement, accepting short sales for threshold securities and reporting sales to the TRF; OATS reporting, including accurate data and consistency of OATS information with the TRF; and use of multiple MPIDs. The findings also stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning SEC Rule 606; best execution regular and rigorous reviews; determining and marking a sale as "long" or "short," and locate requirements; and OATS-reject repairs, synchronize clocks, ensuring reported OATS data is timely, and consistency of OATS information with routed orders.

The findings also included that the firm submitted short interest position reports to FINRA that contained inaccurate information, in that the firm failed to report its short interest positions in several securities for one month. FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. **(FINRA Case #2008012681001)**

**Ryan Beck & Co. (CRD #3248, Florham Park, New Jersey) nka Stifel Nicolaus & Company, Incorporated (CRD #793, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000, agreed to provide remediation to customers who purchased unit investment trusts (UITs) and qualified for, but did not receive, the applicable sales charge discount, and will submit to FINRA a proposed plan of how it will identify and compensate customers and a schedule detailing the total dollar amount of restitution provided to each customer. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish an effective supervisory system and written supervisory procedures reasonably designed to ensure that discounts were correctly applied on eligible UIT purchases. The findings stated that the firm's written supervisory procedures had limited information regarding UIT sales charge discounts, and omitted the fact that certain UIT sponsors permitted exchange discounts for purchases made with the proceeds from a UIT holding of another sponsor; this was particularly relevant because the firm's UIT business was almost exclusively with UIT sponsors that provided this sales charge discount. The findings also stated that the firm's procedures lacked substantive guidelines, instructions, policies or steps for brokers, trading personnel or supervisors to follow to determine if a customer's UIT purchase qualified for, and received, a sales charge discount. The findings also included that the broker and firm compensation diminished when the customer received a sales charge discount and, because of this, the firm needed to be particularly diligent in providing guidance to brokers, supervisors and trading personnel on UIT sales charge discounts.

FINRA found that the firm failed to provide eligible customers with appropriate discounts on both UIT rollover and breakpoint purchases. FINRA also found that the firm failed to identify and appropriately apply sales charge discounts in certain top-selling UITs and, as a result, the firm overcharged customers in the sample approximately \$20,000. In addition, FINRA determined that the firm sold UITs that imposed a deferred sales charge that was generally charged upon redemption if a customer sold a UIT before the deferred sales charges were imposed. Moreover, FINRA found that the firm failed to ensure that its customers' UIT purchase confirmations included the required language stating that "on selling your shares, you may pay a sales charge. For the charge and other fees, see the prospectus." Furthermore, FINRA found that the firm misstated on certain UIT confirmations that a sales charge discount had been applied when, in fact, it had not. **(FINRA Case #2008015700901)**

**Sanford C. Bernstein & Co, LLC (CRD #104474, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$57,500 and required to revise its written supervisory procedures regarding OATS, sales transactions,



trade reporting, books and records, and anti-intimidation/coordination. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report Reportable Order Events (ROEs) to OATS, and transmitted New Order Reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order so that the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. The findings stated that the firm incorrectly reported to the FNTRF a clearing-only or non-tape, non-clearing report on numerous occasions because the firm incorrectly respectively designated the transactions in reportable securities as offsetting, “riskless” portions of riskless principal transactions when they should have been media-reported as agency transactions instead; the firm incorrectly reported its executing capacity as principal instead of agent for transactions reported to the FNTRF, and accepted transactions in the FNTRF that incorrectly reflected the firm’s capacity as principal instead of agent. The findings also stated that the firm executed short sale and long sale transactions in a principal capacity, and failed to properly mark the sales appropriately as short or long on its securities record or trading ledger. The findings also included that the firm failed to submit Route or Combined Order/Route Reports to OATS for orders, submitted numerous execution reports to OATS for most of the orders that the firm should not have reported, and submitted incorrect information to OATS on Route Reports concerning additional orders.

FINRA found that the firm effected a short sale in an equity security for its own account without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. FINRA also found that the firm failed to provide written notification disclosing to its customer its correct capacity in transactions, and failed to disclose each of the capacities in which it acted when acting in multiple capacities for transactions. In addition, FINRA determined that the firm provided written notification to its customer that contained an incorrect disclosure about its remuneration in transactions by disclosing a “transaction charge” without identifying it as a “commission” where the firm acted in an agency capacity, and referring once to its remuneration as a “commission” instead of a “commission equivalent” or “markup/markdown” where the firm acted in a principal or riskless principal capacity. Moreover, FINRA found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing OATS, sales transactions, trade reporting, books and records, and anti-intimidation/coordination. **(FINRA Case #2008012766902)**

**Seton Securities Group, Inc. (CRD #18044, Union Beach, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and agreed to review its supervisory system and procedures concerning the preservation of electronic communications for compliance with FINRA rules and federal securities laws and regulations, and to certify in writing to FINRA that it has completed its review and has in place systems and procedures reasonably designed to achieve compliance

with the laws, regulations and rules concerning the preservation of electronic communications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all of its business-related electronic communications transmitted by or to individuals affiliated with a branch office. The findings stated that the firm relied on individuals affiliated with the branch office to forward or copy those communications to the firm's home office for retention, but not all of the branch office's business-related emails were forwarded to the home office. The findings also stated that the electronic communications that were not forwarded or copied to the firm's home office were not retained. The findings also included that the firm did not establish, maintain and enforce a supervisory system and written procedures reasonably designed to achieve compliance with the rules and regulations applicable to the retention of business-related electronic communications because, among other things, the system relied on the firm's registered representatives to forward communications to the home office. FINRA found that the firm's procedures did not provide for any reasonable follow-up or review to ensure that copies of all email communications were, in fact, being captured and maintained. **(FINRA Case #2009016215601)**

**Susquehanna Financial Group, LLLP (CRD #35865, Bala Cynwyd, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected numerous transactions in TRACE-eligible corporate bonds as agent for an affiliated customer, and in reporting the transactions to TRACE, the firm incorrectly reported its capacity as principal and, with respect to each transaction, it failed to report the customer side to TRACE as required. **(FINRA Case #2009016310101)**

**Tocqueville Securities L.P. (CRD #26001, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding TRACE. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time, and reported transactions in TRACE-eligible securities to TRACE that it was not required to report. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE. **(FINRA Case #2009017155901)**

**UBS Financial Services, Inc. (CRD #8174, Weehawken, New Jersey) and UBS Securities LLC (CRD #7654, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firms were censured, fined \$175,000 each, and required to establish and maintain a system, including written procedures, relating to Fully Paid Lending or a similar program reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA/NASD rules prior to soliciting or facilitating any new fully paid loans from customers. In addition, an officer of the firms shall certify that the firms' system and written procedures relating to Fully Paid Lending are in compliance with NASD Rule 3010(a) and (b) prior to soliciting or facilitating any new fully paid loans from customers.

Without admitting or denying the findings, the firms consented to the described sanctions and to the entry of findings that they enabled their customers to lend their fully paid securities to the firms (Fully Paid Lending) on a solicited and unsolicited basis to facilitate, among other things, short selling by other customers of the firms, in that customers who lent securities received monthly interest payments, which were calculated as a percentage of the market value of the securities and secured by a third-party Letter of Credit. The findings stated that in order for the firms to make delivery of shares for securities in demand, the supply desk within the firms' Securities Lending Department most typically borrowed the securities from internal and external sources, but if these sources were exhausted, then the staff searched the firms' database to identify customers that owned fully paid shares in order to borrow the securities; the staff then determined the interest rate that the firms were willing to pay the customer to borrow the securities, although there was no oversight and no supervisory approval required for setting or changing interest rates, and would contact the customer's registered representative to inquire as to whether the customer was interested in lending the security. The findings also stated that the Securities Lending staff did not provide standardized information or materials to registered representatives about Fully Paid Lending or provide any information to the registered representative's supervisor, branch manager, or anyone else at the branch regarding the requested loan securities, but the securities lending staff sent the registered representative, who did not receive training or consistent information about Fully Paid Lending, a proposed customer securities loan agreement (CSLA) for execution. The findings also included that the firms did not disclose, or inadequately disclosed, material facts in the CSLA, the customer's monthly account statement or the confirmation of the initial lending transaction, to customers concerning the loan transactions that were necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

FINRA found that the firms failed to disclose or adequately disclose that the security was hard to borrow due to short selling, and was frequently being borrowed to facilitate short selling; that the firms could reduce the interest rates; that registered representatives received commissions for the duration of the loan; that while securities were on loan, dividends were paid as a "cash-in-lieu" payment and were therefore subject to higher tax rates; and that shares on loans could be sold at any time. FINRA also found that the firms failed to establish and maintain a system to supervise the activities of each registered representative, registered principal and other associated person related to Fully Paid Lending reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA/NASD rules. In addition, FINRA determined that the firms did not provide any training regarding Fully Paid Lending to its registered persons, in that the firms failed to supervise its registered representatives with respect to the Fully Paid Lending process or their communications with customers about Fully Paid Lending, and the firms had no system or procedures that notified branch managers that customers in their branches were participating in Fully Paid Lending. Moreover, the findings stated that the traditional tools that were already available to branch managers and other supervisors to monitor customer accounts were significantly compromised when shares were lent through Fully Paid Lending, because a customer's account no longer reflected the customer's position in the

security when the shares were lent through Fully Paid Lending, and the firms' ability to supervise values of positions, concentration levels and the suitability of any subsequent securities recommendations for the customers was compromised. Furthermore, the findings stated that the firms failed to establish, maintain and enforce written procedures reasonably designed to supervise Fully Paid Lending, and these procedures were not accessible to the firms' registered representatives and branch managers, and there were no procedures at the branch level regarding Fully Paid Lending. **(FINRA Case #2009017133201)**

**The Vertical Group (CRD #104353, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and required to revise its written supervisory procedures regarding NASD Rule 2111, the accuracy and completeness of the firm's books and records, and quoting in multiple quotation media; and reporting of riskless principal transactions and clearly erroneous trades. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted trade reports for odd-lot trades and failed to report the transactions with the required odd-lot modifier of .RO to the OTCRF. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rule 611(a) of Regulation NMS. The findings also stated that the firm failed to show the account for which orders were entered or received on brokerage order memoranda; and failed to preserve, for a period not less than three years, the first two in an accessible place, brokerage order memoranda. The findings also included that the firm failed to provide written notification disclosing to customers that transactions were executed at an average price.

FINRA found that the firm failed, when it acted as principal for its own account, to provide written notification disclosing to its customers that it was a market maker in each security. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing NASD Rule 2111, the accuracy and completeness of the firm's books and records, and quoting in multiple quotation media; and reporting of riskless principal transactions and clearly erroneous trades. In addition, FINRA determined that the firm failed to provide documentary evidence it performed the supervisory reviews set forth in its written supervisory procedures concerning best execution of customer orders, the Three Quote Rule, anti-intimidation/coordination, trade reporting, marking of orders and the locate requirements, accurate short sale indicators, honoring quotes and OATS reporting requirements. **(FINRA Case #2007011848101)**

**York Securities, Inc. (CRD #8056, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it operated a deficient Anti-Money Laundering (AML) program and failed to detect, investigate and report suspicious activity in connection to a firm customer's participation in a fraudulent stock-lending scheme through the firm's accounts. The findings stated that the firm's clearing firm advised it of a "negative hit"

(any criminal, regulatory or civil action history) for an individual involved with a corporation that completed an online application to open an account at the firm through its trading direct division; after learning of the criminal action against the individual, the firm did not directly confront the individual or anyone associated with the corporation but instead, sent an email to the individual asking only whether or not it was correct that the individual had had a material monetary problem with a government agency, and the individual responded, confirming and stating the issue was resolved and there was no debt owed. The findings also stated that the firm informed the individual that it would open an account for the corporation on a cash-only basis (*i.e.*, no margin privileges). The findings also included that the firm's knowledge regarding the individual's criminal record was a red flag that should have caused it to give heightened scrutiny to activity in the corporation's account, but during a five month period, there were shares of securities valued at more than \$12 million delivered into the corporation's account, in some instances by deposit of physical certificates.

FINRA found that these shares were then sold within days of being received into the account, and the proceeds were then wired to a domestic bank account in the name of the corporation; the firm did not investigate any of these transactions or deem them to be suspicious and did not speak with anyone at the corporation regarding the transactions. FINRA also found that the day after a customer presented a share certificate, he sent the firm a letter of authorization requesting the firm transfer the shares from his account to the corporation's account at the firm, and one week after the shares were transferred, the corporation sold the shares in separate sales transactions and the proceeds were wired to the corporation's domestic bank account. In addition, FINRA determined that the sales of the stock, just a week after they were transferred from the customer to the corporation, were further red flags that should have caused the firm to ask additional questions concerning the transactions and consider filing suspicious activity reports (SARs). Moreover, FINRA found that the firm never followed up with the corporation to learn about the nature of its business activities and never obtained additional information regarding the fact it identified itself as a "loan underwriter" in its new account documents. Furthermore, FINRA found that the firm did not follow its written customer identification program (CIP) procedures for individual customers domiciled in the United States; instead, the firm submitted customer names to its clearing firm to perform searches, which did not fulfill the firm's CIP responsibilities. The findings also stated that for customers who were individuals domiciled in the United States, there was no record maintained as to how verification occurred, and no records as to whether the firm utilized documentary or non-documentary means for verification existed or were retained. The findings also included that, in light of the firm's failure to conduct non-documentary checks, and failure to maintain records of the information used to verify customer identification, its CIP with respect to accounts for individuals domiciled in the United States was inadequate and failed to meet the standards of Section 326 of the Patriot Act, resulting in a willful violation of MSRB Rule G-41. **(FINRA Case #2008011762701)**

## Individuals Barred or Suspended

**Junying Bao (CRD #5666862, Associated Person, Tampa, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Bao's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bao consented to the described sanctions and to the entry of findings that she was in possession of unauthorized study aids while taking the Investment Company and Variable Contracts Products Representative qualification (Series 6) exam. The findings stated that Bao agreed by electronic submission prior to the exam not to possess notes, formulas, study materials or electronic devices in the exam room or during restroom breaks; but during a restroom break, she accessed unauthorized study materials from her locker.

The suspension is in effect from October 4, 2010, through October 3, 2012. (FINRA Case #2009020840201)

**Carol Jean Benge (CRD #5607996, Registered Representative, Mayer, Arizona)** submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Benge consented to the described sanction and to the entry of findings that, in her capacity as a personal banker with her member firm's affiliated bank, she withdrew funds totaling \$900 from a customer's bank account without the customer's authorization, knowledge or consent, and established an online bill pay arrangement for the customer through the account, which Benge used to make online payments totaling \$686 to her creditors. The findings stated that the customer did not authorize the payments and did not benefit from them. The findings also stated that Benge failed to respond to FINRA requests for information. (FINRA Case #2009018020301)

**Antonio Gata Bolinao Sr. (CRD #1806027, Registered Representative, Chesterfield, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Bolinao's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bolinao consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Bolinao submitted Business Practice Questionnaires to his firm and each time falsely denied the existence of any liens or judgments against him. The findings also stated that Bolinao did not acknowledge the existence of the undisclosed information until after his member firm learned of the information during its investigation of an unrelated customer complaint. The finding also included that Bolinao subsequently stated that he did not disclose the information because he believed that the firm would terminate him.

The suspension is in effect from September 20, 2010, through June 19, 2011. (FINRA Case #2009017831001)



**Sean Patrick Britton (CRD #2448037, Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, which includes disgorgement of approximately \$9,000 in net commissions received in connection with the unregistered securities transactions at issue, and was suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Britton's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Britton consented to the described sanctions and to the entry of findings that, using instrumentalities of interstate commerce, he caused to be executed customer sales in, and facilitated the distribution of, more than 1.3 billion shares of unregistered securities in thinly traded low-priced stocks, and failed to establish that these securities or transactions were exempt from registration. The findings stated that no registration statements were in effect for the securities and no exemptions to the registration requirement were applicable. The findings also stated that despite the presence of multiple red flags, Britton failed to perform adequate due diligence and wrongfully relied on others to perform the inquiries.

The suspension is in effect from September 7, 2010, through January 6, 2011. **(FINRA Case #2007011830002)**

**Thomas Joseph Brough (CRD #2403390, Registered Principal, Chicago, Illinois), Eric Robinson Elliott (CRD #1418906, Registered Principal, Miami Beach, Florida), Brian James Falabella (CRD #4177162, Registered Representative, Farmingdale, New York), and Jonathan Jay Sheinkop (CRD #2812671, Registered Representative, Chicago, Illinois)** submitted Offers of Settlement in which Brough was suspended from association with any FINRA member in any capacity for eight months; Elliott was fined \$10,000, ordered to pay \$30,217, in restitution to customers and suspended from association with any FINRA member in any capacity for six months; Falabella was suspended from association with any FINRA member in any capacity for six months; and Sheinkop was ordered to pay partial restitution in the total amount of \$30,000 to customers and suspended from association with any FINRA member in any capacity for 12 months. In light of Brough's, Falabella's and Sheinkop's financial statuses, no monetary sanctions were imposed. Elliott shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution to FINRA. The restitution ordered with respect to Sheinkop must be paid either immediately upon Sheinkop's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier.

Without admitting or denying the allegations, Brough, Elliott, Falabella and Sheinkop consented to the described sanctions and to the entry of findings that they induced customers to invest in complex, illiquid and risky collateralized mortgage obligations (CMOs). The findings stated that through misrepresentations and omissions, the respondents led customers to believe that through CMO investments they could safely achieve consistently high annual returns, regardless of market conditions, with the government backing the investments. The findings also stated that the CMOs the respondents bought for customers were generally not government-guaranteed, and

they were subject to price volatility, uncertain cash flows and maturities, based on changes in interest rates. The findings also included that the respondents failed to disclose material characteristics of, and risks associated with, different CMOs with substantially different payment structures and interest rate sensitivity, and failed to ensure that customers understood the characteristics and risks of CMOs.

FINRA found that the respondents failed to adequately investigate and understand the CMO products, and did not have reasonable grounds to believe that the individual CMO purchases were suitable for each customer. FINRA also found that the risk was further magnified through the recommendations to the customers to buy CMOs on margin, and Elliott, Falabella and Sheinkop did not have reasonable grounds to believe the use of margin was suitable for customer CMO purchases based upon the customers' disclosed investment experience, investment objectives, financial situation and needs. In addition, FINRA determined that Brough, Elliott, Falabella and Sheinkop exercised discretionary authority in customer accounts without obtaining the customers' prior written authorization and their member firm's prior acceptance of the account as discretionary. Moreover, FINRA found that the customers were exposed to significant risks that they did not understand, and Brough, Elliott Falabella and Sheinkop did not take the time to understand or ignored them so that some customers suffered considerable losses to their retirement savings.

Brough's suspension is in effect from September 20, 2010, through May 19, 2011.

Elliott's suspension is in effect from October 18, 2010, through April 17, 2011.

Falabella's suspension is in effect from October 4, 2010, through April 3, 2011.

Sheinkop's suspension is in effect from September 20, 2010, through September 19, 2011. (FINRA Case #2007011348301)

**Albert Frederick Carlton Burgess (CRD #3152874, Registered Representative, Pembroke West, Bermuda)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Burgess' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Burgess consented to the described sanctions and to the entry of findings that he effected transactions in a customer's account without the customer's prior knowledge, authorization or consent.

The suspension was in effect from October 4, 2010, through November 2, 2010. (FINRA Case #2009017271601)

**Kevin Lawrence Cohen (CRD #4527236, Registered Principal, Stuart, Florida), Dennis Stanley Kaminski (CRD #1013459, Registered Principal, Wellington, Florida), and Gari Craig Sanfilippo (CRD #4151931, Registered Principal, Wellington, Florida)** were each suspended from association with any FINRA member in any capacity for 18 months and required to requalify before acting in any capacity requiring qualification. In addition, Kaminski was fined \$50,000. The National Adjudicatory Council (NAC) imposed the sanctions following appeal and call for review of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Kaminski failed to supervise his member firm's timely review of variable annuity transactions and failed to address the

breakdown of the compliance department's Trade Review Team's review of Red Flag Blotters. The findings stated that Cohen and Sanfilippo created and maintained inaccurate books and records relating to the firm's variable annuity trading.

Cohen's and Sanfilippo's suspensions are in effect from October 18, 2010, through April 19, 2012. Kaminski has appealed to the SEC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #EAF0400630001)**

**Philip Rene Deroziere (CRD #2848342, Registered Principal, Kenilworth, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Deroziere consented to the described sanction and to the entry of findings that he converted \$10,000 from his member firm by endorsing and depositing a check made payable to the firm into his personal bank account without the firm's knowledge or permission. The findings stated that Deroziere also converted \$750 from a non-securities customer by endorsing and depositing checks made payable to the customer into his personal bank account without the customer's knowledge or permission. The findings also stated that Deroziere failed to respond to FINRA requests for information. **(FINRA Case #2009016976701)**

**Vincent Fedders (CRD #4971592, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Fedders' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Fedders consented to the described sanctions and to the entry of findings that he signed the names of registered representatives and supervisors of his member firm on internal administrative documents without their knowledge or authorization. The findings stated that Fedders knew the firm did not permit employees to sign other employees' names on internal administrative documents.

The suspension is in effect from September 20, 2010, through March 19, 2011. **(FINRA Case #2009018330701)**

**Conrad Lee Fitzwater (CRD #3019918, Registered Representative, South Charleston, West Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Fitzwater's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Fitzwater consented to the described sanctions and to the entry of findings that he participated in the sale of Universal Lease Programs (ULPs) without prior written notice to, and prior written approval from, his member firm, and received approximately \$2,000 in commissions from the sale of ULPs. The findings stated that Fitzwater submitted an outside business activities disclosure form to his member firm that failed to report that he intended to engage in the sale of ULPs.

The suspension was in effect from April 5, 2010, through August 4, 2010. **(FINRA Case #2009016709009)**

**Susan Leigh Freeman (CRD #4171709, Registered Representative, St. Paul, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Freeman's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Freeman consented to the described sanctions and to the entry of findings that she willfully failed to timely update her Form U4 with material information. The findings stated that Freeman signed an Associate Registered Representative Agreement in which she agreed to comply with FINRA's rules and regulations, including keeping her Form U4 current.

The suspension was in effect from September 20, 2010, through November 3, 2010. **(FINRA Case #2009020451701)**

**Fredric Henry Gardner (CRD #2252801, Registered Representative, Dublin, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gardner consented to the described sanction and to the entry of findings that he engaged in outside business activities by serving as the chief financial officer of a start-up company, and failed to provide prompt written notice to his member firm of any outside business activities and to obtain a designated firm principal's prior permission before accepting any position as officer or director of another entity, contrary to his firm's written policies and procedures. The findings stated that Gardner, while serving as the start-up company's chief financial officer, converted the entity's funds for his personal use by writing fraudulent checks without the entity's knowledge or permission. The findings also stated that Gardner solicited and accepted \$15,000 from an individual as an investment in the entity but converted the funds for his personal use. **(FINRA Case #2009020196301)**

**Roger Howard Garrett (CRD #4375342, Registered Principal, Cerritos, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$9,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Garrett's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Garrett consented to the described sanctions and to the entry of findings that he participated in the sale of ULPs without prior written notice to, and prior written approval from, his member firm, and received approximately \$4,000 in commissions from the sale of ULPs. The findings stated that Garrett submitted an outside business activities questionnaire to his member firm that contained statements that he had not engaged in outside business activities, which was false.

The suspension was in effect from February 16, 2010, through June 15, 2010. **(FINRA Case #2009016709008)**

**Ethelbert Pacis Gazmen (CRD #1540738, Registered Representative, Darien, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Gazmen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gazmen consented to the described sanctions and to the entry of findings that he recommended that his member firm's customer use part of her available funds to purchase a variable universal life insurance (VUL) policy through him, and recommended that the customer open an account at another firm. The findings stated that Gazmen assisted the customer in opening a margin account with the other firm and was given trading authority over the account for which he made all of the investment decisions and entered the trades directly, but was not compensated in any way for managing the account. The findings also stated that although Gazmen was not licensed to recommend the sale of individual securities to a customer or to engage in the purchase or sale of individual securities on a customer's behalf, he did so in handling the customer's account at the other firm. The findings also included that Gazmen failed to give notice to his firm of his proposed role in handling the customer's account, as the firm and FINRA rules required.

The suspension was in effect from October 4, 2010, through November 2, 2010. (FINRA Case #2009018322101)

**Jamie Brianne Ramsey Goodwin (CRD #5229380, Registered Representative, Independence, Kansas)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Goodwin consented to the described sanction and to the entry of findings that she accepted annual insurance premiums for non-variable life insurance customers, but failed to fully remit these amounts to the insurance company affiliated with the firm. The findings stated that Goodwin deposited the annual premiums into her office account and made monthly premium payments, keeping the balance in her office account. The findings also stated that by doing so, Goodwin generated additional cash flow to fund her office operations. The findings also included that when this practice ceased, Goodwin had failed to remit \$18,703.82 in insurance premiums, which was subsequently paid to the affiliated insurance company. (FINRA Case #2009021037801)

**Corbett Leo Hankins Jr. (CRD #2791989, Registered Representative, Bolivia, North Carolina)** submitted an Offer of Settlement in which he was fined \$15,500 and suspended from association with any FINRA member in any capacity for eight months. The fine must be paid either immediately upon Hankins' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Hankins consented to the described sanctions and to the entry of findings that he sold interests in ULPs to members of the public and failed to provide prior written notice to, and obtain prior written approval from, his member firm. The findings stated that Hankins failed to timely respond to FINRA requests for information and documents.

The suspension was in effect from January 19, 2010, through September 18, 2010. (FINRA Case #2009016709002)

**Ryan Keith Hardy (CRD #5494752, Registered Representative, Herndon, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hardy consented to the described sanction and to the entry of findings that he misappropriated approximately \$8,585 from bank customers' accounts by closing their accounts and withdrawing their funds for his personal use, without their knowledge or permission. The findings stated that Hardy informed the bank that he closed the accounts with the intention of opening new accounts so as to qualify for sales incentives, and maintained the customer funds in his desk at work and at his home. The findings also stated that Hardy returned the monies to the customers whose funds he had still retained. (FINRA Case #2009018334401)

**William Kevin Harrison (CRD #4353102, Registered Representative, Pilot Mountain, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Harrison consented to the described sanction and to the entry of findings that he transferred customer funds out of bank accounts linked to the firm's securities accounts into a single online account at another broker-dealer. The findings stated that Harrison transferred funds that totaled at least \$6.5 million belonging to multiple customers. The findings also stated that Harrison established the online account in a relative's name, but he had sole control over the online account and conducted significant options trading in the account, using the customers' funds and engaging in the trading without the affected customers' knowledge or consent. The findings also included that Harrison subsequently transferred some of the funds out of the online account to unknown destinations. FINRA found that Harrison failed to respond to FINRA requests for information and failed to appear for a FINRA on-the-record interview. (FINRA Case #2008015740301)

**Dwayne Howard Kappell (CRD #2159603, Registered Representative, Evansville, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000, which includes disgorgement of commissions received, and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Kappell's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kappell consented to the described sanctions and to the entry of findings that he sold interests in ULPs to members of the public and failed to provide prior written notice to, and obtain prior written approval from, his member firm. The findings stated that Kappell received approximately \$14,733.03 in commissions from the sales.

The suspension was in effect from February 16, 2010, through May 15, 2010. (FINRA Case #2009016709005)



**Dennis Lee Keating II (CRD #2918547, Registered Principal, Temecula, California)**

submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Keating consented to the described sanction and to the entry of findings that he participated in private securities transactions involving the offer and sale of interests in a company, outside the scope of his employment with his member firm. The findings stated that Keating sold interests in the company totaling approximately \$17.6 million to investors and received compensation in the approximate amount of \$1.7 million for his participation. The findings also included that Keating failed to provide his firm with prior written notice of his proposed participation in these transactions and failed to receive the firm's prior written approval. The findings also included that at all times the firm's written procedures prohibited employees from engaging in private securities transactions. FINRA found that Keating was employed by outside businesses holding various positions, including officer and director with these outside businesses, while he was associated with his firm, and failed to provide the firm with prompt written notice of these outside business activities. **(FINRA Case #2007011125101)**

**Arthur Khotinskiy (CRD #5551101, Registered Representative, Brooklyn, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Khotinskiy funded new customer checking accounts with his own money in order to open them. The findings stated that Khotinskiy made online bill payments from each of the new accounts to credit card accounts in his name in order to qualify for incentive benefits from his firm and to reimburse himself for the initial deposits he made to open the accounts. The findings also included that Khotinskiy failed to respond to FINRA requests for information. **(FINRA Case #2009017472801)**

**Ernest Park Kim (CRD #2573873, Registered Representative, Alhambra, California)**

submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Kim's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kim consented to the described sanctions and to the entry of findings that, on a document that firm customers had previously signed and dated, he altered the date without the customers' knowledge, authorization or consent. The findings stated that Kim then submitted the altered document to the firm for processing.

The suspension was in effect from October 4, 2010, through November 12, 2010. **(FINRA Case #2009018740001)**

**Ronald Gabriel Klebba (CRD #1935556, Registered Representative, Canton, Georgia)**

submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Klebba consented to the described sanction and to the entry of findings that he financially exploited elderly women by convincing them to grant him general power-of-attorney and to sign a document waiving any conflict of interest that Klebba might have, name him as beneficiary on assets, name him as a joint owner on bank accounts,

name him as joint tenant on a warranty deed for real estate and to give him a \$50,000 gift from the proceeds of the sale of a condominium. The findings stated that Klebba's acts directly violated his employer's rules prohibiting registered representatives from being the beneficiary of a contract policy or from accepting a grant of power-of-attorney from customers. **(FINRA Case #2008014974201)**

**Ronald Arthur Knight (CRD #2937432, Registered Principal, Ontario, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Knight consented to the described sanction and to the entry of findings that he sold interests in ULPs to members of the public and failed to provide his member firm with prior written notice about the sales and failed to obtain the firm's prior approval. The findings stated that Knight participated in the sales despite his member firm denying his request and received approximately \$30,270 in commissions from the sales. The findings also stated that Knight completed a firm questionnaire containing statements that he had not engaged in any outside business activities, which was false. **(FINRA Case #2009016709007)**

**Joshua Kohn (CRD #2419594, Registered Representative, Deerfield Beach, Florida)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Kohn consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview and failed to contact FINRA to reschedule the interview. **(FINRA Case #2009020974501)**

**Craig Gary Langweiler (CRD #841897, Registered Representative, Newtown, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Langweiler consented to the described sanctions and to the entry of findings that he exercised discretion in a customer's account without the customer's written authorization or his member firm's acceptance of the account as discretionary. The findings stated that during that time period, Langweiler's firm prohibited discretionary trading in those types of customer accounts.

The suspension was in effect from October 11, 2010, through October 22, 2010. **(FINRA Case #2008015073801)**

**Gary Michael Laskowski (CRD #2770649, Associated Person, East Haddam, Connecticut)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable if and when Laskowski re-enters the securities industry. The sanctions were based on findings that Laskowski engaged in activity as a principal at a member firm without being registered in that capacity. The findings stated that Laskowski continued to act as an unregistered principal even though he had been cited in a Letter of Caution for acting as an unregistered principal.

The suspension is in effect from September 20, 2010, through September 19, 2011. **(FINRA Case #2006003916901)**

**Clinton James Lewis (CRD #2471102, Registered Principal, Brentwood, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 10 business days, with the exception that Lewis may continue to act as an Options Principal. Without admitting or denying the findings, Lewis consented to the described sanctions and to the entry of findings that he was responsible for supervising a registered representative of his member firm and for reviewing the firm's receipt and forwarding of customer funds, but he failed to properly supervise the registered representative, who converted funds from customers. The findings stated that the registered representative wrote checks from his outside business that were made payable to the firm to fund investments for one of his customers. The findings also stated that Lewis reviewed these checks and failed to ask the registered representative why his business was providing the funds for the customer's investments. The findings also included that Lewis failed to contact the customer to determine whether the amount invested was correct, which could have been detected and would have prevented the registered representative's conversion of customer funds.

The suspension was in effect from November 1, 2010, through November 12, 2010. **(FINRA Case #2009016863001)**

**Lindsay Steven Loflin Sr. (CRD #2562128, Registered Representative, Greensboro, North Carolina)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Loflin consented to the described sanctions and to the entry of findings that he recommended and sold VUL policies to customers, and recommended that these customers use funds from existing VUL policies or contracts to purchase or pay premiums on the new VUL policies or contracts. The findings stated that Loflin obtained customer authorization and submitted to his member firm forms prepared for the transactions that contained inaccurate information, in that the forms inaccurately represented that the transactions at issue were not replacements when, in fact, they were replacements, thereby causing his firm's books and records to contain inaccurate information.

The suspension is in effect from October 18, 2010, through January 17, 2011. **(FINRA Case #2006006901103)**

**Harold Dean Malicoat Jr. (CRD #1811096, Registered Representative, Evansville, Indiana)** submitted a Letter of Acceptance, Waiver and consent in which he was fined \$38,500, which includes disgorgement of commissions received of \$86,004.50 minus his payment of \$52,500 to investors, and suspended from association with any FINRA member in any capacity for one year. Without admitting or denying the findings, Malicoat consented to the described sanctions and to the entry of findings that he participated in the sale of ULPs to members of the public and failed to provide prior written notice to, and obtain prior approval from, his member firms.

The suspension was in effect from February 16, 2010, through February 15, 2011. **(FINRA Case #2007009342201)**

**Robert Franklyn Malin (CRD #1178312, Registered Principal, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Malin's member firm conducted a securities business while failing to maintain adequate net capital and Malin, as the firm's president, had both substantial responsibility and involvement with the net capital violations. The findings stated that FINRA advised Malin to cease conducting a securities business, but the firm asserted that the notice was insufficient and the firm was capital-compliant, and refused to cease conduct of its securities business. **(FINRA Case #2005001121401)**

**Patrick Joseph McConnell (CRD #2603531, Registered Representative, Roslyn, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, McConnell consented to the described sanctions and to the entry of findings that, although he had received oral instructions from a customer to purchase a security when certain conditions occurred, McConnell purchased shares on a customer's behalf when he did not speak to the customer on the date of purchase, did not have the customer's written authorization to exercise discretion over either of the customer's accounts, and did not have his member firm's acceptance of the accounts as discretionary. The findings stated that McConnell executed trades in the customer's accounts when the accounts were non-discretionary, and he was aware that the customer was deceased at the time of the trades. The findings also stated that although McConnell sought only to liquidate open positions in the deceased customer's account, the customer had not previously ordered or authorized the trades.

The suspension is in effect from October 18, 2010, through November 16, 2010. **(FINRA Case #2009020204101)**

**Feltus Barrow McKowen (CRD #1231747, Registered Representative, Baton Rouge, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon McKowen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, McKowen consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Forms U4.

The suspension is in effect from September 20, 2010, through September 19, 2011. **(FINRA Case #2009017210601)**

**Jiten D. Mehta (CRD #2242882, Registered Principal, Takoma Park, Maryland)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Mehta consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information. **(FINRA Case #2008014589701)**

**Thomas J. Munnelly (CRD #1823439, Registered Principal, Upper Darby, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Munnelly consented to the described sanction and to the entry of findings that he served as an outside business' Chief Operating Officer without disclosing his outside business activity to his member firm. The findings stated that the outside business was outside the scope of his relationship with his firm, and Munnelly failed to file a reporting form or otherwise disclose to his firm in writing that he was working for the outside business. The findings also stated that Munnelly failed to respond to FINRA requests for information. **(FINRA Case #2009018407701)**

**Gregory Arthur Niebler (CRD #716226, Registered Supervisor, Mequon, Wisconsin)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Niebler consented to the described sanction and to the entry of findings that he received approximately \$358,000 from an elderly customer, for whom he was appointed power of attorney, in the form of personal checks written directly to him or his credit card companies to pay down his credit card debt; at least \$172,900 of that amount was received after the customer had been diagnosed as incompetent and suffering from dementia and Alzheimer's disease. The findings stated that Niebler invoked his power of attorney to sign the customer's name to certain of the checks. The findings also included that Niebler falsely denied to his firm on compliance questionnaires that he had received any gifts valued in excess of \$100 from any of his customers when he was receiving substantial amounts of money from the customer's bank account, and failed to report that he had obtained the customer's power of attorney to his firm. FINRA found that in effecting the transfer of funds from the customer to himself or his credit card company, Niebler acted contrary to his duty as a power of attorney, in that he failed to act in the customer's best interest and did not have the customer's explicit written authorization to transfer money to himself. **(FINRA Case #2007009405201)**

**Paul Albert Obersteller (CRD #350264, Registered Principal, Corpus Christi, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Obersteller consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information. The findings stated that Obersteller failed to respond to FINRA requests to provide testimony. **(FINRA Case #2009016548801)**

**Andre B. Perpetuo aka Andre Barbieri (CRD #5512096, Foreign Associate, Sao Paulo, Brazil)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Perpetuo consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for additional information and documents. **(FINRA Case #2010022785001)**

**Thomas Michael Petracek (CRD #1606222, Registered Representative, Naples, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Petracek's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Petracek consented to the described sanctions and to the entry of findings that he recommended the purchase of a fixed and variable annuity to a customer, and since he was not registered with any FINRA member firm, he was unable to sign the annuity application. The findings stated that Petracek's relative became associated with a member firm, signed the customer's annuity application and submitted it to his firm, and the annuity company listed the relative as the introducing agent after discussing the matter with principals of the firm. The findings also stated that Petracek knew his relative was not present when the customer signed the annuity application or during any of his meetings with the customer at which the annuity was discussed, and he knew that his relative never met or spoke with the customer. The findings also included that Petracek became registered at the same firm as his relative, and the annuity transaction settled the day after Petracek became registered.

FINRA found that Petracek's relative later received a commission payment of approximately \$50,500 for the annuity sale from the firm, which he shared with Petracek, and Petracek did not disclose to the firm that he shared in this commission payment. FINRA also found that during his employment at the firm, Petracek continuously served as the registered representative responsible for advising the customer on the annuity and for servicing the customer's account in which the annuity was held at the firm, although the relative's name remained on the account as the responsible agent. In addition, FINRA determined that Petracek failed to take any steps to correctly disclose on the firm's books and records that he—not his relative—was the responsible representative, rendering the firm's records inaccurate.

The suspension is in effect from October 18, 2010, through January 17, 2011. **(FINRA Case #2008015144802)**

**Steven Michael Rabinovici (CRD #2845696, Registered Representative, Plainview, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 months. Without admitting or denying the allegations, Rabinovici consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4 and/or keep his Form U4 current by making such disclosure on subsequent amendments. The findings stated that Rabinovici failed to timely respond to FINRA requests for a written statement or documents.

The suspension is in effect from September 20, 2010, through December 19, 2011. **(FINRA Case #2008011684002)**



**Mandar Vijay Raut (CRD #3142936, Registered Representative, Rochester, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Raut's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Raut consented to the described sanctions and to the entry of findings that he completed and affixed a customer's signature to a distribution request form to transfer the customer's funds from his joint brokerage account into his brokerage Individual Retirement account (IRA), without the customer's knowledge or authorization.

The suspension is in effect from October 4, 2010, through December 3, 2010. **(FINRA Case #2009017957801)**

**John Christopher Romanoff (CRD #3097147, Registered Representative, Cape Coral, Florida)** was barred from association with any FINRA member in any capacity and ordered to pay \$70,000, plus interest, in restitution to customers. The sanctions were based on findings that Romanoff borrowed \$70,000 from customers and evidenced the loan by a promissory note, even though his member firm's written procedures prohibited registered representatives from borrowing funds from firm customers. The findings stated that Romanoff did not notify his firm of the loan or obtain the firm's permission to borrow funds from the customers, defaulted on the promissory note and failed to repay any of the principal balance due to the customers, even though the customers complained to his firm. The findings also stated that Romanoff provided his firm with a Financial Advisor Compliance Questionnaire which falsely represented that he had not entered into any loan with a customer. The findings also included that Romanoff failed to respond to FINRA requests for information. **(FINRA Case #2008014858101)**

**Eddie Wayne Sawyers (CRD #4355338, Registered Representative, Mount Airy, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sawyers consented to the described sanction and to the entry of findings that he recommended to certain customers whose accounts he serviced at his member firm that they open online brokerage accounts at another broker-dealer, not affiliated with his firm, and that they give Sawyers discretionary authority over those accounts. The findings stated that some of the firm's customers opened online brokerage accounts, but they did not give Sawyers written authority to trade in the accounts. The findings also stated that Sawyers conducted transactions on his firm's customers' behalf in the online brokerage accounts without notifying his firm in writing or verbally that he intended to use discretionary authority in the online brokerage accounts, and did not notify the online broker-dealer, in writing, that he was associated with a member firm. The findings also included that Sawyers took steps to conceal these activities from his firm and from the online broker-dealer by not using his own name in connection with the accounts, using a computer that was not his firm's

computer and a non-firm email address to set up the online-brokerage accounts and maintaining an exclusive email account to communicate about trade confirmations and monthly account statements with customers.

FINRA found that Sawyers falsely attested in his firm's compliance questionnaire that he had not maintained any outside brokerage accounts that the firm had not approved in writing, and that he had not participated in any outside business activities that the firm had not approved in writing. FINRA also found that Sawyers failed to timely respond to FINRA requests for information and failed to timely appear for a FINRA on-the-record interview. **(FINRA Case #2008015712501)**

**Derrick Ray Shields (CRD #5069231, Registered Representative, Rosemount, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Shields' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Shields consented to the described sanctions and to the entry of findings that he assisted a relative, an unregistered person at the time, with the sale of a fixed and variable annuity. The findings stated that Shields signed and submitted the customer's annuity application to his member firm and the annuity company after discussing the matter with firm principals; Shields also signed the firm's new account application as the customer's introducing agent, thereby facilitating his relative's violation of registration rules. The findings also stated that Shields certified on the annuity application that he had explained the contract to the customer even though he knew he had not done so. The findings also included that Shields' relative became registered with the same firm and the day after he became registered, the annuity transaction settled.

FINRA found that when Shields later received a commission payment for the annuity sale from his firm for approximately \$50,500, he shared the payment with his relative. FINRA also found that Shields did not disclose to the firm that he shared the commission payment, and from the time his relative became registered with the firm until the termination of Shields' association with the firm, it was his relative, not Shields, who was the registered representative responsible for advising the customer on the annuity and for servicing the customer's account in which the annuity was held at the firm. In addition, FINRA determined that Shields failed to take any steps to correctly disclose on the firm's books and records that his relative was the responsible representative, rendering the firm's records inaccurate.

The suspension is in effect from October 18, 2010, through January 17, 2011. **(FINRA Case #2008015144801)**

**Jerry Allen Smith (CRD #1881020, Registered Representative, Brookville, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,500, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his

suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he participated in the sale of ULPs to members of the public without prior written notice to, or written approval from, his member firms. The findings stated that Smith received approximately \$10,311.36 in commissions from the sales.

The suspension was in effect from February 1, 2010, through April 30, 2010. **(FINRA Case #2009016709006)**

**Edward Francis Stetz Jr. (CRD #1223245, Registered Principal, Johnstown, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stetz consented to the described sanction and to the entry of findings that he borrowed a total of approximately \$27,600 from customers at his member firm, and the loans were unsecured and their terms were not memorialized in writing. The findings stated that when the loans occurred, the firm's written policies generally prohibited representatives from borrowing money from customers, but certain exceptions existed that did not apply to Stetz' borrowing from the customers. The findings also stated that Stetz did not obtain the firm's approval to borrow money from any of the customers, and he did not at any time disclose to the firm that he had borrowed money from them, and the borrowing arrangements did not otherwise meet the conditions set forth in NASD Rule 2370(a)(2). The findings also included that Stetz failed to testify on the record for FINRA's investigation. **(FINRA Case #2009018333301)**

**Paul Michael Tavelman (CRD #442971, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was ordered to pay \$7,000 in restitution to a customer and suspended from association with any FINRA member in any capacity for 30 days. In light of Tavelman's financial status, no fine was imposed. Without admitting or denying the findings, Tavelman consented to the described sanctions and to the entry of findings that he recommended an unsuitable concentration of high-risk investments for an estate account. The findings stated that as a result of Tavelman's investment choices, approximately 50 percent to 95 percent of the estate account's investments during the relevant period included one or more high-risk income funds. The findings also stated that Tavelman recommended the transactions without having reasonable grounds for believing that such transactions were suitable for the customer in view of the nature of the account and the customer's financial situation, investment objectives and needs. The findings also included that the recommendations were unsuitable in that the executor of the estate account was seeking conservative, growth investments for the account without risk to principal, and the estate account suffered losses as a result of Tavelman's unsuitable recommendations. FINRA found that Tavelman exercised discretion in the estate account without the executor's prior written authorization and his member firm's written acceptance of the account as discretionary.

The suspension is in effect from October 18, 2010, through November 16, 2010. **(FINRA Case #2008015108101)**

**Gregory William Van Camp (CRD #4533186, Registered Representative, Orem, Utah)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Van Camp failed to respond to FINRA requests for information. **(FINRA Case #2009018711101)**

**Jeremy Curtis Van Rite (CRD #5064405, Registered Representative, Benbrook, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 10 business days. In light of Van Rite's financial status, no fine was imposed. Without admitting or denying the findings, Van Rite consented to the described sanction and to the entry of findings that he mishandled customers' cash insurance premium payments totaling \$389.82. The findings stated that Van Rite recorded the payments on his member firm's remittance system but failed to deposit insurance payments in his agent group banking account to ensure timely credit to the customers' insurance policies, contrary to his firm's procedures.

The suspension was in effect from October 4, 2010, through October 15, 2010. **(FINRA Case #2008015274901)**

**David Samuel Wenk (CRD #1674396, Registered Representative, Bonita Springs, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for five business days. The fine must be paid either immediately upon Wenk's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wenk consented to the described sanctions and to the entry of findings that he exercised discretion in a firm customer's IRA account by executing transactions in the account without the customer's prior authorization or the firm's approval of the account as discretionary.

The suspension was in effect from October 18, 2010, through October 22, 2010. **(FINRA Case #2009016691001)**

**Geraldine Ann Wert (CRD #1739218, Registered Principal, Livingston, New Jersey)** submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Wert consented to the described sanction and to the entry of findings that she converted approximately \$18,610 from an expense account her supervisors' owned to pay for personal expenses. The findings stated that Wert took approximately \$12,000 in unauthorized personal loans from the expense account, which she repaid shortly after withdrawing the funds. The findings also stated that she forged her supervisors' signatures on customers' new account forms and advisory agreements without her supervisors' authorization or knowledge. The findings also included that Wert failed to appear and provide testimony as FINRA required. **(FINRA Case #2008015086401)**

**Stephen V. Whitman (CRD #5606905, Registered Representative, Washington, DC)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four

months. The fine must be paid either immediately upon Whitman's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Whitman consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information.

The suspension is in effect from September 20, 2010, through January 19, 2011. **(FINRA Case #2009020371201)**

**Maria Alicia Wild (CRD #5616487, Registered Representative, Miami, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Wild's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wild consented to the described sanctions and to the entry of findings that she obtained a bank form a customer signed authorizing payment of the customer's credit card bill in the amount of approximately \$13,280, but after she had obtained the signed authorization form, the amount of the bill had increased by approximately \$190. The findings stated that Wild cut the customer's signature from the signed authorization form that authorized payment of the bill in the amount of approximately \$13,280 and pasted the signature to another bank form that authorized payment of the bill in the amount of approximately \$13,470, without the customer's prior knowledge, consent or authorization.

The suspension was in effect from September 20, 2010, through October 19, 2010. **(FINRA Case #2010021987401)**

**Darla Lanette Williams (CRD #4061303, Registered Representative, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Williams consented to the described sanction and to the entry of findings that she opened several accounts, including checking accounts with lines of credit and installment loans, under the names of retail bank customers, without their knowledge and authorization. The findings stated that Williams accessed these accounts and made unauthorized withdrawals totaling approximately \$40,500, which she used for her benefit and personal use. The findings also stated that Williams failed to respond to FINRA requests for information. **(FINRA Case #2009019338301)**

**Moustafa Mahmoud Zayed (CRD #2284697, Registered Principal, Parlin, New Jersey)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for nine months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Zayed willfully failed to disclose material information on multiple Forms U4.

The suspension is in effect from October 4, 2010, through July 3, 2011. **(FINRA Case #2006003834901)**

## Individual Fined

**Clark Baldwin Loth (CRD #312871, Registered Representative, Watertown, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Loth consented to the described sanctions and to the entry of findings that he exercised discretion in customer accounts, and even though the customers orally conferred the exercise of discretion, Loth did not obtain the customers' written authorization or his member firm's written acceptance of the accounts as discretionary. The findings stated that Loth's firm did not permit discretion to be used in these types of accounts. (FINRA Case #2009017807401)

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of September 30, 2010. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *FINRA Disciplinary and Other Actions*.

**Tradespot Markets Inc. fka Beloyan Investment Securities, Inc. (CRD #29683, Davie, Florida) and Mark Bedros Beloyan (CRD #1392748, Registered Principal, Davie, Florida)** were fined \$13,500, jointly and severally. Beloyan was suspended from association with any FINRA member in any capacity for 10 business days. The sanctions were based on findings that Beloyan, acting on the firm's behalf, drafted and distributed emails in which he recommended the purchase of securities, and those recommendations were unbalanced, misleading and omitted material facts. The findings stated Beloyan and the firm failed to conduct a review of one of the companies' current financial statements before recommending the purchase of its stock in emails.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. (FINRA Case #2005001988201)

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Daniel Alvin Abbott (CRD #1360876, Registered Supervisor, Taylors, South Carolina)** was named as a respondent in a FINRA complaint alleging that he exercised discretion in a customer's account without the customer's written authorization and without his member firm's acceptance of the account as discretionary. The complaint alleges that Abbott used the proceeds from an annuity liquidation to purchase mutual funds and



did not communicate with the customer who was out of the country; the customer complained to Abbott and his member firm regarding the unauthorized trading when he returned. The complaint also alleges that Abbott's use of discretion did not constitute permitted exercise of time and price discretion because he did not exercise the discretion by the end of the day on which he conducted a meeting with the customer. (FINRA Case #2008015270701)

**William Austin Bailey (CRD #1085215, Registered Principal, Mesa, Arizona)** was named as a respondent in a FINRA complaint alleging that he made fraudulent and unsuitable mutual fund and variable annuity switch recommendations to retired and unsophisticated customers. The complaint alleges that Bailey omitted material information concerning fees and expenses, such as front-end loads and contingent deferred sales charges (CDSCs) related to the transactions, and did not discuss the different types of shares available; the information omitted was material because the customers could not fairly evaluate the recommended transactions without understanding the reasons for the transactions and their costs. The complaint also alleges that Bailey caused his customers to incur approximately \$90,332 in unnecessary costs in buying and selling their mutual funds; at the same time, he derived approximately \$105,111 in commissions from these transactions in the customers' accounts. The complaint further alleges that Bailey repeatedly recommended short-term mutual fund transactions without having reasonable grounds for believing the recommendations were suitable in light of the size, frequency, the nature of the transactions and each customer's investment objectives, financial situation and needs. In addition, the complaint alleges that Bailey fraudulently induced the customers to make variable annuity exchanges by misrepresenting the need for the exchanges, and omitting material information about the costs associated with the transactions, including CDSCs and bonus rider fees, thereby causing the customers to engage in unnecessary variable annuity exchanges and needlessly incur approximately \$27,168 in surrender charges. Moreover, the complaint alleges that Bailey traded mutual funds in customers' accounts without the customer's prior written authorization to exercise discretion. Furthermore, the complaint alleges that Bailey did not comply with his firm's mutual fund switch and variable annuity exchange recordkeeping requirements by omitting material information on mutual fund disclosure forms and predating client signature lines to make it appear that customers were aware of fees prior to execution. The complaint also alleges that Bailey provided false, inaccurate and misleading information on the forms about the reasons his customers made variable annuity exchanges and added information after they were signed, causing his firm's books and records to be false. (FINRA Case #2006007058102)

**Joey Wade Dean (CRD #3061136, Registered Representative, Hot Springs, Arkansas)** was named as a respondent in a FINRA complaint alleging that he made material misrepresentations and/or omissions to customers, many of whom were retired or elderly, in connection with the sale of unlisted, structured note products; Dean told the customers that their principal was protected and guaranteed a fixed annual rate of return which was false. The complaint alleges that Dean acted with intent because he knew, or should have known, that his representations were contrary to the description of the securities contained in prospectus documents. The complaint also alleges that

because the securities ceased paying monthly income to customers, Dean sold shares of their investments to generate proceeds to allow them to make their accustomed withdrawals, without the customers' authorization to sell shares, and Dean did not disclose that their monthly withdrawals were the result of the sale of shares. The complaint further alleges that Dean recommended and effected the sale of the securities without having a reasonable basis to believe the transactions were suitable given the financial circumstances and condition of the customers as well as the risk factors associated with the securities. **(FINRA Case #2008012833801)**

**Kim Edward Elverud (CRD #2139216, Registered Principal, Bloomington, Minnesota)** was named as a respondent in a FINRA complaint alleging that he approved and caused his member firm to circulate a newsletter relating to a company whose securities his firm marketed, generally indicating that the company's performance had improved, but the newsletter failed to disclose material facts and information concerning the company's financial difficulties, which were necessary to give a balanced picture for investors, and presented insufficient risk disclosures about recent events at the company. The complaint alleges that Elverud distributed misleading letters that contained untrue statements of material fact and omitted to state necessary material facts to customers and omitted all reference to the financial difficulties the company was experiencing, including but not limited to an inability to meet obligations as they became due. The complaint also alleges that Elverud caused his firm to advertise renewable notes on the Internet, using Internet ads and maintaining websites for its issuers' note offerings when these advertisements omitted material information, were not fair and balanced, and failed to provide a sound basis for evaluating the facts with regard to the notes. The complaint further alleges that Elverud created, approved and caused the distribution of sales kits, print advertisements, mailers, form letters and newsletters that emphasized positive statements about issuers and the high returns offered by notes that omitted material information, were not fair and balanced, failed to provide a sound basis for evaluating the facts and made exaggerated, unwarranted or misleading statements. In addition, the complaint alleges that Elverud failed to have the firm's public communications, including advertisements, approved by signature or initial by a firm registered principal and failed to maintain records of public communications. Moreover, the complaint alleges that as the firm's president and chief compliance officer (CCO), and as the individual who created, approved and maintained records regarding these advertisements, Elverud was responsible for their accuracy. Furthermore, the complaint alleges that Applications for Broker-Dealer Registration (Forms BD) filings made by or for Elverud, on the firm's behalf, were false or inaccurate; the filings listed a different individual as the firm CCO, when in fact Elverud held that title or responsibilities of CCO, causing the firm's books and records relating to the identification of personnel holding supervision and compliance responsibilities to be inaccurate. The complaint also alleges that Elverud failed to prepare accurate net capital calculations, which caused the firm to maintain inadequate net capital while it conducted a securities business. **(FINRA Case #2008013429301)**

**Kevin Francis Garvey (CRD #2197846, Registered Principal, Bernardsville, New Jersey)** was named as a respondent in a FINRA complaint alleging that while the supervisor of his member firm's securities lending desk, he permitted a non-registered individual associated with a non-registered finder firm to act in a capacity that required the non-registered individual and/or his firm to be registered as a broker-dealer, and Garvey caused his firm to pay the individual transaction-based compensation through the finder firm. The complaint alleges that Garvey willfully caused his firm to pay transaction-based compensation to a non-registered entity and regularly caused his firm to permit an unregistered natural person to negotiate, solicit and enter into stock borrow and loan transactions, which are duties customarily performed by a registered securities lending representative. The complaint also alleges that Garvey performed the duties of a securities lending supervisor without being properly registered. The complaint further alleges that Garvey consented and/or caused his firm to make transaction-based payments to an unregistered person through an unregistered entity in connection with firm transactions in several securities. In addition, the complaint alleges that Garvey consented to and/or caused the continuation of the practice of paying finders on transactions with certain counterparties in which the finder had provided no service (the cut-in transactions) and permitted individual traders to subjectively determine the cut-in transactions on which a finder was to be paid and the amount of the finder's compensation in those transactions even though the finder had provided no service on the transactions. Moreover, the complaint alleges that Garvey caused his firm to create and preserve inaccurate books and records because the firm's automated records of the cut-in transactions were transferred to its accounting records, which inaccurately indicated that payments were made to finders on the basis of services rendered when, in fact, no services had been rendered to justify the payments on the indicated transactions. **(FINRA Case #2009018183501)**

**GFI Securities LLC (CRD #19982, New York, New York), Michael Scott Babcock (CRD #2450869, Registered Principal, Huntington, New York), Donald Patrick Fewer (CRD #1415123, Registered Principal, Colts Neck, New Jersey), Stephen Falletta (CRD #2880335, Registered Representative, Colts Neck, New Jersey), Stephen Louis Scotto (CRD #2547858, Registered Representative, Manhasset, New York) and Laine Dale Steinberg (CRD #2376426, Registered Representative, New York, New York)** were named as respondents in a FINRA complaint alleging that the firm brokered inter-dealer credit default swaps (CDS) transactions and, in response to certain commission reduction proposals, and unknown to customers, the firm and competing firms colluded with one another in an effort to keep customers from obtaining CDS brokerage services at more favorable rates, and by engaging in anti-competitive conduct resulting in the respondents benefitting at the customers' expense. The complaint alleges that the respondents acted unethically and failed to observe high standards of commercial honor and just and equitable principles of trade. The complaint also alleges that the respondents engaged in a device, scheme or artifice to defraud, and by making material misstatements and by failing to make material disclosures to its customers, they failed to disclose that they engaged in collusive interactions with competing firms to thwart customers' efforts to obtain brokerage services at bona fide competitive rates and made material misstatements suggesting

they were not engaging in such interactions. The complaint further alleges that the respondents, in connection with the offer or sale of any securities or any security-based swap agreement, made untrue statements of material facts or omitted to state material facts to obtain money or property; and/or engaged in transactions that operated as a fraud or deceit upon the purchaser. In addition, the complaint alleges that the firm, Babcock and Fewer knew or ignored red flags indicating that firm registered representatives under their supervision were engaging in improper communications with competitors regarding CDS brokerage rates. Moreover, the complaint alleges that the firm's written supervisory procedures were not reasonably designed to ensure compliance with Interpretative Material (IM) 2110-5 and other securities law requirements concerning anti-competitive conduct; the relevant section lacked any specificity about how, how often, or by whom supervisory reviews were to be conducted to ensure that such conduct was not occurring. Furthermore, the complaint alleges that the written supervisory procedures failed to provide for ongoing and systematic review of brokers' electronic and telephonic communications for that purpose; in that the firm failed to review employees' Bloomberg messages, failed to document such reviews until recently and failed to document that it conducted any supervisory reviews of other instant-messaging forms of communications. **(FINRA Case #2006005158309)**

**Herbert Tyrone Hunt (CRD #1632226, Registered Supervisor, Lyndhurst, Ohio)** was named as a respondent in a FINRA complaint alleging that he effected discretionary transactions in a public customer's accounts without the customer's prior written authorization or his member firm's prior written acceptance of the accounts as discretionary. The complaint alleges that Hunt failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008015021001)**

**Thomas Michael Kinser (CRD #1435579, Registered Representative, Southlake, Texas)** was named as a respondent in a FINRA complaint alleging that he misappropriated approximately \$330,000 from a customer's account for his own purposes by causing a mutual fund company to issue redemption checks directly to Kinser's office rather than the customer's home address, forged the customer's signatures on the checks and deposited the checks in his own account. The complaint alleges that Kinser created fictitious account performance summaries to conceal his misappropriation from the customer. The complaint also alleges that Kinser failed to respond to FINRA requests for information and documents. **(FINRA Case #2009017466201)**

**Cesar Madrigal (CRD #4572698, Registered Representative, Deer Park, Texas)** was named as a respondent in a FINRA complaint alleging that he misappropriated \$102,054.55 from customers' bank accounts for his personal use by using forged bank customer signatures on partial withdrawal general ledger tickets to make unauthorized withdrawals from the accounts. The complaint alleges that at or about the time of his termination, Madrigal admitted to his member firm's affiliated bank that he had misappropriated funds from customer bank accounts for his own personal use. The complaint also alleges that Madrigal failed to respond to FINRA requests for information and documents. **(FINRA Case #2009019322001)**

**Jason Michael Mutascio (CRD #4156832, Registered Representative, Aventura, Florida)** was named as a respondent in a FINRA complaint alleging that he falsified multiple third-party wire request forms, submitted the falsified forms to his member firm, and obtained and exercised control over at least \$52,500 in funds from a customer's account without the customer's knowledge or authorization. The complaint alleges that Mutascio's submission of the falsified wire requests caused his firm's books and records to be inaccurate. The complaint also alleges that Mutascio failed to appear and provide a FINRA on-the-record sworn statement. **(FINRA Case #2009017814901)**

**Ryan Seth Sackstein (CRD #4304667, Registered Representative, Hewlett, New York)** was named as a respondent in a FINRA complaint alleging that he requested a customer sign a written agreement, drafted on firm letterhead, authorizing Sackstein to exercise sale transactions in an account contrary to firm policies and procedures prohibiting commission-based discretionary accounts, absent exceptional circumstances. The complaint alleges that Sackstein did not notify his member firm of the agreement nor obtain firm approval to exercise discretion in the customer's account. The complaint also alleges that despite the customer's request to stop trading in his account, Sackstein executed unauthorized trades in the customer's accounts until the customer contacted Sackstein's supervisor, requesting that all trading be halted in his accounts and Sackstein be removed as his assigned registered representative. The complaint further alleges that Sackstein failed to respond to FINRA requests for information and to provide on-the-record testimony. **(FINRA Case #2008015914601)**

**Betty Lynn Saleh (CRD #2146402, Registered Representative, Agoura Hills, California)** was named as a respondent in a FINRA complaint alleging that she recommended unsuitable transactions to customers without a reasonable basis to believe that the recommendations and resultant transactions would benefit the customers or were consistent with the customers' financial position, investment goals and objectives, based upon the information she knew about their other security holdings and their financial situations and needs. The complaint alleges that Saleh also engaged in a pattern of withdrawing funds from annuities primarily to raise cash, with which she generated production credits and routinely applied the proceeds to purchase CEFs, UITs, mutual funds or reverse convertibles; Saleh then engaged in unsuitable excessive and short-term trading by selling the positions within one year to purchase similar funds, causing the customers to incur cost with no substantial benefit and for their portfolios to suffer undue concentration in equities and resulting market risk and losses. The complaint also alleges that Saleh made unsuitable recommendations to customers to surrender variable annuities in whole or in part to purchase other variable annuities without a reasonable basis to believe that the transactions would benefit the customers or were consistent with their financial positions, investment goals and objectives. The complaint further alleges that Saleh placed, or caused to be placed, false customer signatures on firm records, issuer documents and variable annuity documents relating to transactions, and submitted the documents to her firm and issuers, knowing they would rely on the information as to the customers and the transactions. In addition, the complaint alleges that Saleh placed, or caused to be placed, false information into her firm's electronic account records to reflect annuity partial surrenders as interest payments, and that the firm then provided the false information to customers on

customer statements, as Saleh knew, or should have known, would occur. Moreover, the complaint alleges that Saleh executed transactions in customer accounts without their prior knowledge, authorization or consent, and exercised discretion in customers' accounts without the customers' prior written authorization and without the firm's written acceptance of the accounts as discretionary. Furthermore, the complaint alleges that Saleh committed fraud intentionally or recklessly engaging in this conduct to enhance her commissions without regard to the consequences to the customers or her firm; and that she failed to disclose material information and concealed her conduct, by placing false information in her firm's books and records, causing her firm to maintain inaccurate records regarding securities transactions. **(FINRA Case #2008012738001)**

**Frank J. Scarcello III (CRD #5675353, Registered Representative, Camp Verde, Arizona)** was named as a respondent in a FINRA complaint alleging that he effected an online wire transfer for \$8,024 from a bank customer's account for his personal use and benefit. The complaint alleges that Scarcello obtained an automatic teller machine (ATM) card linked to the customer's account and used the card to make withdrawals totaling over \$12,000 from the account, and used the funds for his personal benefit. The complaint also alleges that when the customer discovered the funds were missing and confronted Scarcello, Scarcello executed an unauthorized wire transfer of \$20,000 from the line of credit of another bank customer's account to the first customer's account, thereby converting bank customers' funds for his personal benefit. The complaint further alleges that Scarcello failed to fully and completely respond to FINRA requests for information, and failed to respond to FINRA requests to provide testimony. **(FINRA Case #2010021368801)**

**Sanjeev Jayant Shah (CRD #4009454, Registered Representative, New York, New York)** was named as a respondent in a FINRA complaint alleging that he made unauthorized foreign currency trades in a client's account, resulting in margin calls being generated for the account and, without funds to meet the calls, certain of the customer's accounts were frozen and one customer was unable to wire funds out of the account. The complaint alleges that Shah made unauthorized transfers from another client to satisfy, in part, the fund requests the first client made and to satisfy the margin calls for the account. The complaint also alleges that in order to carry out the unauthorized wire transfers, Shah forged a signature and falsified Letters of Authorization (LOAs) directing the transfer of funds. The complaint further alleges that Shah falsified an email to a customer regarding a client's obligation to meet capital calls, falsely created a memo of activity showing that the capital calls had been met and made up an internal email address for a fictitious employee and incorporated it into an email he sent to give the impression that the information he was sending came from his firm's alternative investment group and that the calls had been met. In addition, the complaint alleges that Shah failed to respond to FINRA requests to provide on-the-record testimony and to provide a signed, written statement. **(FINRA Case #2009017788201)**



**Malleswara Rao Tuthika (CRD #5131117, Registered Representative, Bloomington, Illinois)** was named as a respondent in a FINRA complaint alleging that he effected transactions in customers' accounts on a discretionary basis without the customers' prior written authorization and his member firm's prior written acceptance of the accounts as discretionary. The complaint alleges that Tuthika effected mutual fund transactions in customers' accounts without having reasonable grounds for believing such transactions were suitable in light of the customers' financial situations, financial objectives, circumstances and needs. The complaint also alleges that the Class B share mutual fund transactions Tuthika effected in the customers' accounts deprived them of savings in fees and expenses that the customers could have obtained had he instead purchased Class A shares with the same family of funds or from fewer fund families. **(FINRA Case #2008014242401)**

**Paul Leon White II (CRD #4669396, Registered Representative, Huntington, New York)** was named as a respondent in a FINRA complaint alleging that he made unsuitable sales of securities to a non-profit organization. The complaint alleges that White recommended that the customer invest in non-listed real estate investment trust (REITs) and a tenants-in-common (TIC) interest in undeveloped rural real estate without a reasonable basis to believe that the recommendations were suitable for the customer on the basis of its financial status and investment objectives, and its need for liquidity, preservation of capital, ready access to cash and safety of principal. The complaint also alleges that the organization instructed White to sell the REITs, and White acknowledged receipt of the sell instructions and informed the customer that it would receive a check for the sale proceeds within one to two weeks, but later refused to process the sell orders. The complaint further alleges that White participated in the sales of TIC interests totaling \$3,700,000, outside the course or scope of his employment with his member firm and collected selling compensation of approximately \$1,653,958 but failed to provide his firm with prior written notice describing the proposed transactions. **(FINRA Case #2009017798201)**

**Firm Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

Chicago Investment Group, LLC  
Chicago, Illinois  
(September 14, 2010)

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Gremo Investments, Inc.  
North Aurora, Illinois  
(September 17, 2010)

Iron Capital Securities, LLC  
Mill Valley, California  
(September 1, 2010)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

Anthony Amos Inkumsah  
New York, New York  
(September 22, 2010)

Andrew Joseph Israel  
Rockaway Park, New York  
(September 29, 2010)

David Owen Lindner  
Bellmore, New York  
(September 29, 2010)

George Ernest Reilly  
Fox Lake, Illinois  
(September 14, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

Kim Nat Bo  
Woonsocket, Rhode Island  
(September 13, 2010)

Donald Anthony Duarte, Jr.  
La Puente, California  
(September 20, 2010 – October 26, 2010)

James M. Glover  
West Harrison, New York  
(September 21, 2010)

Juan Osiel Gonzalez  
Miami Shores, Florida  
(September 14, 2010)

Richard Donald Kittelstad  
Clearwater, Florida  
(September 27, 2010)

Jason Neil Kraskiewicz  
Fort Lauderdale, Florida  
(September 7, 2010)

Kenneth Michael MacPherson  
Nixa, Missouri  
(September 27, 2010)

Michelle Nuta  
Hopelawn, New Jersey  
(September 20, 2010)

Kenneth Eric Phillips  
Ashburn, Virginia  
(September 14, 2010)

Johnnie Kelsey Pope  
Suffolk, Virginia  
(September 17, 2010)

Sandra Lee Pope  
Ridgefield, Connecticut  
(September 7, 2010)

**James A. Salamone**  
Coudersport, Pennsylvania  
(August 30, 2010 – September 21, 2010)

**Gary Michael Staton**  
Broken Arrow, Oklahoma  
(September 27, 2010)

**Tyrone Ashley Williams**  
Philadelphia, Pennsylvania  
(September 7, 2010)

**Individuals Suspended Pursuant to  
FINRA Rule 9552(d)**

(The date the suspension began is listed  
after the entry. If the suspension has  
been lifted, the date follows the  
suspension date.)

**Rex Stanley Dunbar**  
Boise, Idaho  
(September 24, 2010)

**Giuseppe Fuoti**  
West Ellis, Wisconsin  
(September 27, 2010)

**Robert Michael Garcia**  
Tijeras, New Mexico  
(September 17, 2010)

**Mary Lynn Gilbert**  
Mesa, Arizona  
(July 6, 2010 – September 17, 2010)

**Thomas Joseph Gorter**  
Brandenburg, Kentucky  
(February 18, 2010 – September 9, 2010)

**Lover High Jr.**  
Clarkston, Georgia  
(July 19, 2010 – September 23, 2010)

**David Kempert**  
Charlotte, North Carolina  
(September 3, 2010)

**Jong H. Kim**  
Fort Lee, New Jersey  
(September 7, 2010)

**Christopher Anthony Longo**  
Lakewood, Ohio  
(September 24, 2010)

**David Norman Moore**  
Columbus, Ohio  
(September 23, 2010)

**Thomas Preston Osborn**  
Lexington, Kentucky  
(September 17, 2010)

**William Michael Sanders Jr.**  
Aurora, Colorado  
(September 27, 2010)

**Mayra Soto aka Mayra Jovencia Coronado**  
Fresno, California  
(September 27, 2010)

**Michael Angel Vivero**  
Miami, Florida  
(September 13, 2010)

**Steven Patrick Wilson**  
Huntington Beach, California  
(September 7, 2010)

**Individuals Suspended for Failure to  
Comply with an Arbitration Award or  
Settlement Agreement Pursuant to  
FINRA Rule 9554**

(The date the suspension began is listed  
after the entry. If the suspension has  
been lifted, the date follows the  
suspension date.)

**William George Adelsberger III**  
Baltimore, Maryland  
(September 15, 2010)

**William John Bartok**  
Rescue, California  
(September 1, 2010)

**James Bell**

Houston, Texas  
(January 31, 2008 – September 22, 2010)

**Frank Julian Bluestein**

Milford, Michigan  
(September 16, 2010)

**Thomas Michael Boan**

Kingston, New York  
(September 1, 2010)

**Clifford Kennedy Carnes III**

Cayce, South Carolina  
(September 15, 2010)

**Wilfredo Colon**

Miami, Florida  
(September 22, 2010 –  
September 24, 2010)

**David William Dube**

St. Petersburg, Florida  
(September 16, 2010)

**Elison Joseph Elliott**

Bedford Hills, New York  
(September 22, 2010)

**Joseph Anthony Galbo**

Boca Raton, Florida  
(May 26, 2010 – September 1, 2010)

**Brian Lewis Gass**

Bellingham, Washington  
(September 1, 2010)

**Lloyd William Graham Jr.**

Pasadena, California  
(September 22, 2010)

**Mark Francis Graham**

St. Pete Beach, Florida  
(September 16, 2010)

**Stephen Michael Lawton**

Foster, Rhode Island  
(September 16, 2010)

**Michael William Lopez**

Corona, California  
(September 16, 2010)

**James Steele McClellan Jr.**

Chesterfield, Missouri  
(September 1, 2010)

**William Brown Park**

Houston, Texas  
(September 16, 2010)

**Michael Robert Volts**

Weston, Florida  
(September 16, 2010)

**Yachtz Radcliff Winch**

New York, New York  
(March 19, 2010 – September 22, 2010)

## FINRA Sanctions Trillium Brokerage Services, LLC, Director of Trading, Chief Compliance Officer, and Nine Traders \$2.26 Million for Illicit Equities Trading Strategy

The Financial Industry Regulatory Authority (FINRA) has censured and fined New York-based Trillium Brokerage Services, LLC, \$1 million for using an illicit high frequency trading strategy and related supervisory failures. Trillium, through nine proprietary traders, entered numerous layered, non-*bona fide* market moving orders to generate selling or buying interest in specific stocks. By entering the non-*bona fide* orders, often in substantial size relative to a stock's overall legitimate pending order volume, Trillium traders created a false appearance of buy- or sell-side pressure.

This trading strategy induced other market participants to enter orders to execute against limit orders previously entered by the Trillium traders. Once their orders were filled, the Trillium traders would then immediately cancel orders that had only been designed to create the false appearance of market activity. As a result of this improper high frequency trading strategy, Trillium's traders obtained advantageous prices that otherwise would not have been available to them on 46,000 occasions. Other market participants were unaware that they were acting on the layered, illegitimate orders entered by Trillium traders.

In addition to the nine traders, FINRA also took action against Trillium's Director of Trading and its Chief Compliance Officer. The 11 individuals were suspended from the securities industry or as principals for periods ranging from six months to two years. FINRA levied a total of \$802,500 in fines against the individuals, ranging from \$12,500 to \$220,000, and required the traders to pay out disgorgements totaling about \$292,000.

"Trillium's trading conduct was designed to improperly bait unsuspecting market participants into executing trades at illegitimately high or low prices for the advantage of Trillium's traders," said Thomas R. Gira, Executive Vice President, FINRA Market Regulation. "FINRA will continue to aggressively pursue disciplinary action for illegal conduct, including abusive momentum ignition strategies and high frequency trading activity that inappropriately undermines legitimate trading activity, in addition to related supervisory failures."

FINRA's investigation found that nine Trillium proprietary traders intentionally created the appearance of substantial selling or buying interest in the NASDAQ Stock Market and NYSE Arca exchange. Trillium's traders bought and sold NASDAQ securities in this manner in over 46,000 instances, resulting in total profits of approximately \$575,000, of which the firm retained over \$173,000 and subsequently was required to disgorge.

The individual sanctions are as follows:

- Trader, John J. Raffaele: \$220,000 fine, \$78,245 in disgorgement, and a two-year suspension.
- Director of Trading, Daniel J. Balber: \$200,000 fine, and a two-year suspension in a principal capacity.

- Senior Vice President of Trading, Frank J. Raffaele, Jr.: \$80,000 fine, \$61,495 in disgorgement, and a two-year suspension, 10 months of which are in all capacities.
- Trader, Brian M. Gutbrod: \$80,000 fine, \$51,465 disgorgement, and a 17-month suspension.
- Vice President of Trading, James P. Hochleutner: \$65,000 fine, \$27,286 in disgorgement, and a two-year suspension, 10 months of which are in all capacities.
- Trader, Samuel J. Yoon: \$50,000 fine, \$33,535 in disgorgement, and a 14-month suspension.
- Trader, Tal Sharon: \$25,000 fine, \$20,622 in disgorgement, and an 11-month suspension.
- Chief Compliance Officer, Rosemarie Johnson: \$50,000 fine, and a one-year suspension in a principal capacity.
- Trader, Bradley L. Jaffe: \$20,000 fine, \$12,169 in disgorgement, and a nine-month suspension.
- Trader, Tal B. Plotkin: \$12,500 fine, \$7,125 in disgorgement, and a six-month suspension.
- Trader, Michael S. Raffaele: 11-month suspension.

In concluding this settlement, Trillium and the individual respondents neither admitted nor denied the charges, but consented to the entry of FINRA's findings. This conduct was initially referred to FINRA by NASDAQ's MarketWatch Department.

Balber's suspension is in effect from August 16, 2010, through August 15, 2012.  
Gutbrod's suspension is in effect from August 16, 2010, through January 15, 2012.  
Hochleutner's suspension is in effect from August 16, 2010, through August 15, 2012.  
Jaffe's suspension is in effect from August 16, 2010, through May 15, 2011. Johnson's suspension is in effect from August 16, 2010, through August 15, 2011. Plotkin's suspension is in effect from August 16, 2010, through February 15, 2011. Frank Raffaele's suspension is in effect from August 16, 2010, through August 15, 2012. John Raffaele's suspension is in effect from August 16, 2010, through August 15, 2012. Michael Raffaele's suspension is in effect from August 16, 2010, through July 15, 2011. Sharon's suspension is in effect from August 16, 2010, through July 15, 2011. Yoon's suspension is in effect from August 16, 2010, through October 15, 2011.